IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

CRP.No. 1044 of 2004(F)

(EP 238/03 IN OS.373/1997 of PRL.MUNSIFF'S COURT, KOCHI)

REVN. PETITIONER/JUDGMENT DEBTOR NO.4

VINU, AGED 36, S/O.KURIEN, N.P.2/183,
NEAR NARAKKAL CHURCH, NARAKKAL.

BY ADV. SRI.S.B.PREMACHANDRA PRABHU

RESPONDENTS/DECREE HOLDER & JUDT.DEBTORS 1 TO 3 & 5 TO 10.

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1. VINNY, AGED 44,S/O.LONAPPAN, MENACHERRY HOUSE, NARAKKAL.

2. DASAN, AGED ABOUT 68, S/O.KUMARAN, N.P.2/179,
NEAR NARAKKAL CHURCH, NARAKKAL.

3. ANTONY, S/O.THOMAS, AGED ABOUT 65, N.P.2/180,
NEAR NARAKKAL CHURCH, NARAKKAL.

4. JACOB, S/O.PAUL, AGED ABOUT 61, N.P.2/182,
NEAR NARAKKAL CHURCH, NARAKKAL.

5. ANTONY,S/O.PORINCHU, AGED ABOUT 75, N.P.2/185,
NEAR NARAKKAL CHURCH, NARAKKAL.

6. THOMAS, S/O.PAUL, AGED ABOUT 51, N.P.2/185,
NEAR NARAKKAL CHURCH, NARAKKAL.

7. DAMODHARAN, S/O.KUMARAN, AGED ABOUT 63, N.P.2/186,
NEAR NARAKKAL CHURCH, NARAKKAL.

8. DEVASSYKUTTY, S/O.PORINCHU, AGED ABOUT 52,
N.P.2/187, NEAR NARAKKAL CHURCH, NARAKKAL.

9. URMEESE, S/O.THOMAS, AGED ABOUT 62, N.P.2/189,
NEAR NARAKKAL CHURCH, NARAKKAL.

10. P.N.UNNIKRISHNAN, S/O.NARAYANAN,
N.P.2/190, NEAR NARAKKAL CHURCH, NARAKKAL.

R1 BY ADV. SRI.R.D.SHENOY
BY ADV. SRI.S.VINOD BHAT

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 22/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

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C.R.P. No. 1044 OF 2004

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Dated this the 22nd November, 2007

O R D E R

This revision is filed by the 4th judgment debtor challenging the order dated 05.08.2004 in E.P.No.238 of 2003 in O.S.No.373 of 1997 on the file of the court of the Prl. Munsiff's Court, Kochi. The execution petition was filed by the decree holder under Order XXI Rule 32 of the Code of Civil Procedure. The executing court held that the revision petitioner/4th judgment debtor had violated the decree and he was directed to be imprisoned for a period of two months. Notice in this revision was issued only to the first respondent/decree holder . It is submitted by the learned counsel on either side that other respondents are unnecessary parties to the revision.

2. The learned counsel appearing for the revision petitioner and the first respondent submitted that after the impugned order was passed by the executing court and after the filing of this revision, the disputes between the revision petitioner and the first respondent were settled and an agreement dated 27.02.2005 was executed by them. As per the terms

of the agreement, the revision petitioner, who was in occupation of one room in the building belonging to the first respondent, had vacated the room. It is also stated in the agreement that the first respondent/decree holder has no further grievance and that he would withdraw the Execution Petition, viz., E.P.No.238 of 2003 from which this revision arises. There are other litigations including criminal cases between the parties and it is agreed by them that all the cases would be settled and withdrawn .

3. In view of the agreement between the parties, I am of the view that it is not necessary to direct the revision petitioner to suffer imprisonment as ordered by the executing court. As the parties have settled all their disputes and differences and as they desire quietus to all the litigations, it is only just and proper to set aside the order passed by the executing court.

Accordingly, in view of the agreement between the parties, the Civil Revision Petition is allowed and the order dated 05.08.2004 in E.P.No.238 of 2003 is set aside. No order as to costs.

K.T. SANKARAN,
JUDGE.

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